

AMENDED IN ASSEMBLY APRIL 9, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1334**

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**Introduced by Assembly Member Conway**  
*(Coauthors: Assembly Members Bigelow, Beth Gaines, Harkey, Jones, Logue, Morrell, Nestande, and Wilk)*

February 22, 2013

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An act to amend Sections 3000.08 and 3451 of the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

AB 1334, as amended, Conway. Parole.

Existing law requires that all persons released from prison on and after October 1, 2011, after serving a prison term for a felony be subject to postrelease community supervision provided by a county agency for a period of 3 years immediately following release, except for persons released after serving a term for a serious felony, a violent felony, an offense for which the person was sentenced pursuant to the 3 strikes law, a crime where the person is classified as a high risk sex offender, or a crime where the person is required to undergo treatment by the State Department of State Hospitals because the person has a severe mental disorder. Existing law requires these persons to be subject to parole supervision by the Department of Corrections and Rehabilitation and the court in the county in which the parolee is released or resides.

This bill would require any person who has been released after serving a term for an offense for which the person is required to register as a sex offender to be subject to parole supervision by the Department of Corrections and Rehabilitation. The bill would also require that a person released from state prison who has a prior conviction or juvenile

adjudication for which the person is required to register as a sex offender to be subject to parole supervision by the Department of Corrections and Rehabilitation and the jurisdiction of the court in the county in which the person is released or resides.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 3000.08 of the Penal Code, as amended  
2 by Section 35 of Chapter 43 of the Statutes of 2012, is amended  
3 to read:

4     3000.08. (a) A person released from state prison prior to or  
5 on or after July 1, 2013, after serving a prison term, or whose  
6 sentence has been deemed served pursuant to Section 2900.5, for  
7 any of the following crimes is subject to parole supervision by the  
8 Department of Corrections and Rehabilitation and the jurisdiction  
9 of the court in the county in which the parolee is released or resides  
10 for the purpose of hearing petitions to revoke parole and impose  
11 a term of custody:

12     (1) A serious felony as described in subdivision (c) of Section  
13 1192.7.

14     (2) A violent felony as described in subdivision (c) of Section  
15 667.5.

16     (3) A crime for which the person was sentenced pursuant to  
17 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)  
18 of subdivision (c) of Section 1170.12.

19     (4) Any crime for which the person is required to register as a  
20 sex offender pursuant to Chapter 5.5 (commencing with Section  
21 290) of Title 9 of Part 1.

22     (5) Any crime for which the person is required, as a condition  
23 of parole, to undergo treatment by the State Department of State  
24 Hospitals pursuant to Section 2962.

25     (b) A person released from state prison after serving a prison  
26 term, or whose sentence has been deemed served pursuant to  
27 Section 2900.5, who has a prior conviction or juvenile adjudication  
28 for which the person is required to register as a sex offender  
29 pursuant to Chapter 5.5 (commencing with Section 290) of Title  
30 9 of Part 1, is subject to parole supervision by the Department of  
31 Corrections and Rehabilitation and the jurisdiction of the court in

1 the county in which the parolee is released or resides for the  
2 purpose of hearing petitions to revoke parole and impose a term  
3 of custody.

4 (c) Notwithstanding any other law, all other offenders released  
5 from prison shall be placed on postrelease supervision pursuant  
6 to Title 2.05 (commencing with Section 3450).

7 (d) At any time during the period of parole of a person subject  
8 to this section, if any parole agent or peace officer has probable  
9 cause to believe that the parolee is violating any term or condition  
10 of his or her parole, the agent or officer may, without warrant or  
11 other process and at any time until the final disposition of the case,  
12 arrest the person and bring him or her before the court, or the court  
13 may, in its discretion, issue a warrant for that person's arrest  
14 pursuant to Section 1203.2.

15 (e) Upon review of the alleged violation and a finding of good  
16 cause that the parolee has committed a violation of law or violated  
17 his or her conditions of parole, the supervising parole agency may  
18 impose additional and appropriate conditions of supervision,  
19 including rehabilitation and treatment services and appropriate  
20 incentives for compliance, and impose immediate, structured, and  
21 intermediate sanctions for parole violations, including flash  
22 incarceration in a county jail. Periods of "flash incarceration," as  
23 defined in subdivision (e) are encouraged as one method of  
24 punishment for violations of a parolee's conditions of parole. This  
25 section does not preclude referrals to a reentry court pursuant to  
26 Section 3015.

27 (f) "Flash incarceration" is a period of detention in county jail  
28 due to a violation of a parolee's conditions of parole. The length  
29 of the detention period can range between one and 10 consecutive  
30 days. Shorter, but if necessary more frequent, periods of detention  
31 for violations of a parolee's conditions of parole shall appropriately  
32 punish a parolee while preventing the disruption in a work or home  
33 establishment that typically arises from longer periods of detention.

34 (g) If the supervising parole agency has determined, following  
35 application of its assessment processes, that intermediate sanctions  
36 up to and including flash incarceration are not appropriate, the  
37 supervising parole agency shall, pursuant to Section 1203.2,  
38 petition the court in the county in which the parolee is being  
39 supervised to revoke parole. At any point during the process  
40 initiated pursuant to this section, a parolee may waive, in writing,

1 his or her right to counsel, admit the parole violation, waive a court  
2 hearing, and accept the proposed parole modification or revocation.  
3 The petition shall include a written report that contains additional  
4 information regarding the petition, including the relevant terms  
5 and conditions of parole, the circumstances of the alleged  
6 underlying violation, the history and background of the parolee,  
7 and any recommendations. The Judicial Council shall adopt forms  
8 and rules of court to establish uniform statewide procedures to  
9 implement this subdivision, including the minimum contents of  
10 supervision agency reports. Upon a finding that the person has  
11 violated the conditions of parole, the court shall have authority to  
12 do any of the following:

13 (1) Return the person to parole supervision with modifications  
14 of conditions, if appropriate, including a period of incarceration  
15 in county jail.

16 (2) Revoke parole and order the person to confinement in the  
17 county jail.

18 (3) Refer the person to a reentry court pursuant to Section 3015  
19 or other evidence-based program in the court's discretion.

20 (h) Confinement pursuant to paragraphs (1) and (2) of  
21 subdivision (g) shall not exceed a period of 180 days in the county  
22 jail.

23 (i) Notwithstanding any other law, if Section 3000.1 or  
24 paragraph (4) of subdivision (b) of Section 3000 applies to a person  
25 who is on parole and the court determines that the person has  
26 committed a violation of law or violated his or her conditions of  
27 parole, the person on parole shall be remanded to the custody of  
28 the Department of Corrections and Rehabilitation and the  
29 jurisdiction of the Board of Parole Hearings for the purpose of  
30 future parole consideration.

31 (j) Notwithstanding subdivision (a), any of the following persons  
32 released from state prison shall be subject to the jurisdiction of,  
33 and parole supervision by, the Department of Corrections and  
34 Rehabilitation for a period of parole up to three years or the parole  
35 term the person was subject to at the time of the commission of  
36 the offense, whichever is greater:

37 (1) The person is required to register as a sex offender pursuant  
38 to Chapter 5.5 (commencing with Section 290) of Title 9 of Part  
39 1, and was subject to a period of parole exceeding three years at

1 the time he or she committed a felony for which they were  
2 convicted and subsequently sentenced to state prison.

3 (2) The person was subject to parole for life pursuant to Section  
4 3000.1 at the time of the commission of the offense that resulted  
5 in a conviction and state prison sentence.

6 (k) Parolees subject to this section who have a pending  
7 adjudication for a parole violation on July 1, 2013, are subject to  
8 the jurisdiction of the Board of Parole Hearings. Parole revocation  
9 proceedings conducted by the Board of Parole Hearings prior to  
10 July 1, 2013, if reopened on or after July 1, 2013, are subject to  
11 the jurisdiction of the Board of Parole Hearings.

12 (l) Except as described in subdivision (c), any person who is  
13 convicted of a felony that requires community supervision and  
14 who still has a period of state parole to serve shall discharge from  
15 state parole at the time of release to community supervision.

16 SEC. 2. Section 3451 of the Penal Code is amended to read:

17 3451. (a) Notwithstanding any other law and except for persons  
18 serving a prison term for any crime described in subdivision (b),  
19 all persons released from prison on and after October 1, 2011, or,  
20 whose sentence has been deemed served pursuant to Section 2900.5  
21 after serving a prison term for a felony shall, upon release from  
22 prison and for a period not exceeding three years immediately  
23 following release, be subject to community supervision provided  
24 by a county agency designated by each county's board of  
25 supervisors ~~which~~ *that* is consistent with evidence-based practices,  
26 including, but not limited to, supervision policies, procedures,  
27 programs, and practices demonstrated by scientific research to  
28 reduce recidivism among individuals under postrelease supervision.

29 (b) This section shall not apply to any person released from  
30 prison after having served a prison term for any of the following:

31 (1) A serious felony described in subdivision (c) of Section  
32 1192.7.

33 (2) A violent felony described in subdivision (c) of Section  
34 667.5.

35 (3) A crime for which the person was sentenced pursuant to  
36 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)  
37 of subdivision (c) of Section 1170.12.

38 (4) Any crime for which the person is required to register as a  
39 sex offender pursuant to Chapter 5.5 (commencing with Section  
40 290) of Title 9 of Part 1.

1 (5) Any crime for which the person is required, as a condition  
2 of parole, to undergo treatment by the State Department of State  
3 Hospitals pursuant to Section 2962.

4 (c) This section shall not apply to any person released from  
5 prison who has prior conviction or juvenile adjudication for which  
6 the person required to register as a sex offender pursuant to Chapter  
7 5.5 (commencing with Section 290) of Title 9 of Part 1.

8 (d) (1) Postrelease supervision under this title shall be  
9 implemented by a county agency according to a postrelease strategy  
10 designated by each county's board of supervisors.

11 (2) The Department of Corrections and Rehabilitation shall  
12 inform every prisoner subject to the provisions of this title, upon  
13 release from state prison, of the requirements of this title and of  
14 his or her responsibility to report to the county agency responsible  
15 for serving that inmate. The department shall also inform persons  
16 serving a term of parole for a felony offense who are subject to  
17 this section of the requirements of this title and of his or her  
18 responsibility to report to the county agency responsible for serving  
19 that parolee. Thirty days prior to the release of any person subject  
20 to postrelease supervision by a county, the department shall notify  
21 the county of all information that would otherwise be required for  
22 parolees under subdivision (e) of Section 3003.